

# MEMORANDUM

April 5, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: SCOTT B. McFALL  
Agajanian, McFall, Weiss, Tetreault & Crist

OWEN L. GALLAGHER  
Principal Deputy County Counsel  
General Litigation Division

RE: Rolando Aguilar, Maribel Aguilar v. County of Los Angeles  
Los Angeles Superior Court, Central District Case No. BC305095

DATE OF  
INCIDENT: December 2, 2002

AUTHORITY  
REQUESTED: \$150,000

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

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## CLAIMS BOARD ACTION:

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Approve

☐

Disapprove

☒

Recommend to Board of  
Supervisors for Approval



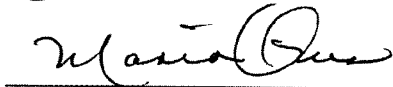
, Chief Administrative Office

ROCKY ARMFIELD



, County Counsel

JOHN F. KRATTLI



, Auditor-Controller

MARIA M. OMS

on May 2, 2005

## SUMMARY

This is a recommendation to settle for \$150,000, the wrongful death lawsuit brought by Rolando Aguilar (father), and Maribel Aguilar (mother) for the death of Leslie Aguilar, an infant, while hospitalized at Harbor/UCLA Medical Center on December 3, 2002. There is no Medi-Cal lien.

## LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## SUMMARY OF FACTS

On October 20, 2002, Leslie Aguilar, a 4-month-old girl with a genetic metabolic disorder affecting her ability to produce necessary enzymes (congenital mitochondrial enzymopathy), was admitted to Harbor/UCLA Medical Center with complaints of feeding difficulties, and an absence of spontaneous respiration (apnea).

On December 1, 2002, it was noted that Leslie was suffering from an imbalance in the concentration of dissolved mineral salts (electrolytes) in the blood, which medical personnel attributed to Leslie's congenital metabolic disease. An order was written that Leslie be given supplements of various mineral salts to correct her electrolyte imbalance. The type and dosage of electrolytes were modified over time in response to the results of continuing blood studies.

On December 2, 2002, at 2:50 p.m., an order was written that Leslie be administered two electrolytes (potassium phosphate) at a specific dosage. However, the order specified a dosage that was greater than medical personnel intended, resulting in the administration of potassium phosphate in an amount sufficient to cause death.

At about 3:10 p.m, Leslie suffered a complete cessation of breathing and heart function (cardiopulmonary arrest). Restoration of heart and lung function using artificial respiration and manual closed chest compression (cardiopulmonary resuscitation [CPR]) was initiated, and Leslie was resuscitated. Although medical personnel also administered medications intended to reverse the adverse consequences of potassium phosphate overdose, their attempts were unsuccessful.

On December 3, 2002, at 3:47 a.m., Leslie died. An autopsy performed by the Los Angeles County Coroner attributed the cause of death to an abnormally high concentration of potassium in the blood (hyperkalemia), resulting from an overdose of potassium phosphate.

## DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Rolando Aguilar, Loss of Care, Comfort and Companionship (MICRA limit)	\$125,000
Maribel Aguilar, Loss of Care, Comfort and Companionship (MICRA limit)	<u>\$125,000</u>
TOTAL	\$250,000

The proposed settlement includes:

Rolando Aguilar, Loss of Care, Comfort and Companionship	\$ 48,750
Maribel Aguilar, Loss of Care, Comfort and Companionship	\$ 48,750
Attorneys Fees (MICRA Estimate)	\$ 47,500
Costs of Litigation	<u>\$ 5,000</u>
TOTAL	\$150,000

## STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through March 10, 2005, are attorneys fees of \$19,850 and \$5,733 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$150,000
County Attorneys Fees and Costs	<u>\$ 25,583</u>
TOTAL	\$175,583

## EVALUATION

Medical experts will be critical of the inappropriate medication order written at 2:50 p.m., on December 2, 2002, specifying a dosage of potassium phosphate in an amount greater than medical personnel intended. This order fell below the standard of care, resulted in the administration of an overdose of potassium phosphate to Leslie Aguilar, and is directly responsible for the results observed here.

We join with our private counsel, Agajanian, McFall, Weiss, Tetreault & Crist, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$150,000.

The Department of Health Services concurs in this settlement.